



Date of Council Meeting: June 24, 2013

TOWN OF LEESBURG
TOWN COUNCIL WORK SESSION

SUBJECT: Food Trucks/Carts Information Memorandum

STAFF CONTACT: Christopher Murphy, AICP, Zoning Administrator

RECOMMENDATION: None. For information only.

ISSUES: Does the Leesburg Zoning Ordinance or Town Code permit food trucks/carts?

BACKGROUND: Neither the Zoning Ordinance or the Town Code currently provides permissions for mobile food trucks or carts. This exclusion most certainly results from the long-standing policy to not issue permits for such uses since they have been viewed as putting the Town's "brick and mortar" restaurants at a competitive disadvantage.

Town Code Chapter 20, Section 20-254 Peddlers and Iterant Vendors provides for licensing and taxation of such uses where permitted. This Section also defines *Iterant Vendor* and *Peddler*. If a food truck/cart were to be permitted and issued a Zoning Permit, the use would fall under one of these two definitions, depending on how the food truck/cart operated, i.e., whether it moved throughout the Town daily, or if it stayed in one place throughout the day for a certain period of time.

Zoning Ordinance Section 9.2 Use Table provides a master list of all permissible permanent uses permissible within each of the Town's zoning districts. No food trucks/carts are listed anywhere in this use table.

Zoning Ordinance Section 9.5 Temporary Uses provides a listing of permissible temporary uses and whether such uses are permitted in residential or commercial zoning districts. Nowhere under Section 9.2 is food truck/cart listed as a stand-alone temporary use. However, it is not out of the ordinary for food vendors to be included as part of some permissible temporary uses, e.g.:

- Fair, in the R-1;
- Carnival, circus, festival, fair, dog show, horse show, fireworks show, tent revival or similar meetings; or,
- Farmers market

In those instances when a food vendor is part of a permitted temporary use event the Town does not issue any type of separate business license for those vendors. Any vendors simply fall under the overall Special Events Permit or Temporary Use Permit as applicable.

The popularity of food trucks/carts appears to be heightening nation-wide, especially in those places with a vibrant, well-established restaurant market. In such a market-place, one can argue food trucks/carts can add to the vibrancy of that place by providing a different type of food venue and serving a different food service niche. Food cart/trucks can also serve as a way to start-up a restaurant business without incurring the costs generally associated with establishing a brick-and-mortar restaurant. A successful example of this in Leesburg is the Doner Bistro.

Some established brick-and-mortar restaurants may argue that food carts/trucks bring a competitive disadvantage to the market place since they do not have the same overhead costs brick-and-mortar restaurant must pay. Also, since the carts/trucks are mobile, they can go to where the customers are instead of having to rely on being found in a stationary location. Thus, brick-and-mortar establishments must rely more on advertising than a competing food cart/truck might.

From an administration standpoint, food trucks/carts can present challenges to permitting and collection of required taxes by the temporary/mobile nature of the use. By being mobile the uses can avoid inspection by not staying in any one place for long. Avoidance could also happen by opening up on weekends or after business hours when enforcement staff are not working. In any instance when this might occur a food truck/cart is not paying for a Business License and is thus avoiding payment of Meals Taxes and BPOL that brick and mortar restaurants must pay.

Staff recommends that Town Council seeks a careful balance between the brick and mortar restaurants and food trucks/carts if the Town is to begin permitting the latter. Some things to consider include:

- The Town has previously issued Zoning Permits and Peddler's & Itinerant Vendor's Licenses to mobile lunch trucks that travelled to the various construction sites then active throughout town. These trucks typically served pre-packages sandwiches and drinks. Normally, they were not selling made to order items and were not testing grounds for start-up restaurants.
- Will food carts/trucks be permitted on public streets, or, will they be restricted to private property (e.g., parking lots) only?
- In what zoning districts will food carts/trucks be permitted in? Can they be anywhere within those zoning districts? Should a specified area of town be designated for food carts/trucks? Creating a specific location could address any concerns by brick-and-mortar restaurants that a competitive disadvantage is created by the mobility of food vendor's carts/trucks. Such location requirements would also help to minimize administrative efforts required by staff.
- Should additional use standards be applied for certain public health matters, e.g., trash disposal, food storage, etc. Or, would the Town rely on state and/or county health code requirements?

Planning and Zoning staff and Economic Development staff have discussed the food carts/trucks matter and recommend that if Council wishes to explore this topic further, that it be referred to the EDC for discussion and recommendations.